

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

MEMORANDUM

September 5, 2017

To: Subcommittee on Communications and Technology Democratic Members and Staff
Fr: Committee on Energy and Commerce Democratic Staff
Re: Subcommittee Hearing on “The Broadcast Incentive Auction: Update on Repacking Opportunities and Challenges”

On **Thursday, September 7, 2017, at 10:00 a.m. in room 2123 of the Rayburn House Office Building**, the Subcommittee on Communications and Technology will hold a hearing titled “The Broadcast Incentive Auction: Update on Repacking Opportunities and Challenges.”

I. BACKGROUND

The broadcast repack is the final phase of the broadcast incentive auction authorized by Congress as part of the Middle Class Tax Relief and Job Creation Act of 2012.¹ As directed by the law, the Federal Communications Commission (FCC) concluded a first of its kind incentive auction earlier this year. In that auction, some broadcast stations chose to sell their licenses to transmit their signals over the airwaves. The FCC in turn auctioned off those rights to other interested parties for the purposes of providing broadband internet access, among other things.

The broadcast incentive auction concluded with over \$19 billion in bids, making it the second largest FCC spectrum auction to date. The auction made 70 MHz of spectrum available for licensed use and 14 MHz of spectrum available for unlicensed use. The auction also generated \$7 billion for deficit reduction.

Before this spectrum can be used by consumers, it must first be reorganized in the process called “repacking.” This repack is a complex process through which the FCC makes sure that all of the broadcast stations that remain on the air operate on the same set of channels nationwide and that all of the broadband frequencies are contiguous.

¹ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act)

Congress set aside \$1.75 billion in auction proceeds to defray broadcast stations' or cable companies' reasonably incurred costs related to the repack. Under the current law, low-power television, TV translator, and digital replacement translator stations are not eligible to receive federal funding. The FCC has set a 39-month period for the process to be completed and has estimated that it will cost approximately \$2.1 billion, substantially exceeding the \$1.75 billion allocated by Congress.

II. LEGISLATION

Earlier this year, Ranking Member Pallone (D-NJ) introduced H.R. 3347, the Viewer Protection Act along with 11 other Democratic cosponsors. The bill would create a \$1 billion emergency fund to keep viewers' from losing their television service during the repack. The bill makes funds available for the FCC to reimburse TV stations, radio stations, or cable companies for their reasonable costs related to the repack. The FCC may only issue these reimbursements, however, if the FCC certifies to the Treasury that additional money is needed. Any money remaining in the \$1 billion fund can be made available to reimburse low-power television or radio stations that are displaced. The Viewer Protection Act also funds a \$90 million viewer education effort to ensure consumers understand how to access their local stations after the repack. Finally, the bill provides the FCC flexibility in how it manages the repacking period.

In addition to H.R. 3347, a bipartisan group of six senators introduced a similar measure—S. 1632, the Viewer and Listener Protection Act.

III. WITNESSES

Patrick Butler

President and CEO

America's Public Television Stations (APTS)

Scott Bergmann

Vice President, Regulatory Affairs

CTIA

Rebecca Murphy Thompson

General Counsel and Executive Vice President

Competitive Carriers Association (CCA)

Rick Kaplan

General Counsel and Executive Vice President, Legal and Regulatory Affairs

National Association of Broadcasters (NAB)

Jim Tracy

CEO, Legacy Telecommunications, Inc.

Chairman, National Association of Tower Erectors (NATE)

Lyn Plantinga

Vice President and General Manager

NewsChannel 5 Network